

ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Revocation of the Collection
Agency License of:

No. 09F-BD067-BNK

**OXFORD COLLECTION AGENCY, INC.
AND CHARLES HARRIS, VICE
PRESIDENT**

**NOTICE OF HEARING TO REVOKE AND
COMPLAINT**

420 Lawrence Bell Drive, Suite 2
Williamsville, NY 14221

Respondents.

PLEASE TAKE NOTICE that, under Arizona Revised Statutes ("A.R.S.") §§ 6-137, 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for July 22, 2009, at 9:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine whether grounds exist to suspend or revoke Respondents' collection agency license; to order any other remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies in Arizona pursuant to A.R.S. §§ 6-123 and 6-131; and to impose a civil money penalty pursuant to A.R.S. 6-132.

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Thomas Shedden, at the address and phone number listed above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the Superintendent retains his authority to enter orders granting a stay, orders on motions for rehearing, final decisions under A.R.S. § 41-1092.08 or other order or process which the Administrative Law

1 Judge is specifically prohibited from entering.

2 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
3 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
4 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
5 Administrative Hearings.

6 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
7 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
8 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
9 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
10 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-
11 1092.07(B), any person may appear on his or her own behalf or by counsel.

12 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
13 made by a court reporter or by electronic means. Any party that requests a transcript of the
14 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

15 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
16 Attorney General Erin O. Gallagher, (602) 542-8935, 1275 West Washington, Phoenix, Arizona
17 85007.

18 **NOTICE OF APPLICABLE RULES**

19 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
20 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
21 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
22 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
23 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
24 R2-19-122. A copy of these rules is enclosed.

25 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**
26 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents'

1 position or defense and shall specifically admit or deny each of the assertions contained in this
2 Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain
3 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall
4 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.
5 When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an
6 assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder.
7 Any defense not raised in the answer is deemed waived.

8 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**
9 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
10 true and admitted and the Superintendent may take whatever action is appropriate, including
11 suspension, revocation, denial of Respondents' license or affirming an order to Cease and Desist and
12 imposition of a civil penalty or restitution to any injured party.

13 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial
14 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
15 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
16 Arizona 85007 and to Assistant Attorney General Erin O. Gallagher, Consumer Protection &
17 Advocacy Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

18 **Persons with disabilities may request reasonable accommodations such as interpreters,**
19 **alternative format or assistance with physical accessibility.** Requests for accommodations must
20 be made as early as possible to allow time to arrange the accommodations. If accommodations are
21 required, call the Office of Administrative Hearings at (602) 542-9826.

22 COMPLAINT

23
24 1. Respondent Oxford Collection Agency, Inc. ("Oxford") is a New York corporation
25 authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§
26 32-1001, *et seq.* The nature of Oxford's business is that of soliciting claims for collection and

1 collection of claims owed, due or asserted to be owed or due within the meaning of A.R.S. § 32-
2 1001(2)(a).

3 2. Respondent Charles Harris ("Mr. Harris") is the Vice President and Active Manager
4 of Oxford. Mr. Harris is authorized to transact business in Arizona as a collection agency within the
5 meaning of A.R.S. §§ 32-1001, *et seq.*

6 3. Neither Oxford nor Mr. Harris are exempt from licensure as a collection agency
7 within the meaning of A.R.S. § 32-1004.

8 4. On June 4, 2007, the Department sent Oxford notice that an examination of Oxford
9 would commence at the Department on or about August 17, 2007. The notice requested certain
10 records and information be forwarded to the Department. Oxford did not comply with said request.

11 5. The Department later rescheduled the examination for January 10, 2008. Again,
12 Oxford failed to comply with the Department's request for information in order to perform an
13 examination.

14 6. On May 12, 2008, the Department's examiner, Jack Watson ("Mr. Watson") placed a
15 telephone call to Mr. Harris regarding the examination and requests for information Oxford had
16 ignored.

17 7. Mr. Watson placed a second call to Mr. Harris on May 15, 2008.

18 8. On February 3, 2009, the Department issued and served upon Respondents an Order
19 to Cease and Desist; Notice of Opportunity for Hearing; Consent to Entry of Order ("Cease and
20 Desist Order").

21 9. The Cease and Desist Order imposed upon Respondents a civil money penalty of five
22 thousand dollars (\$5,000.00).

23 10. The Cease and Desist Order provided Respondents an opportunity to appeal the Order
24 within thirty (30) days of service. Respondents did not file a request for hearing in order to appeal
25 the Cease and Desist Order, nor did they sign the Consent to Entry of Order regarding the Cease and
26 Desist Order and remit the civil money penalty to the Department.

11. On March 17, 2009, Mr. Watson placed telephone calls to Mr. Harris, as well as the President of Oxford.

12. On March 23, 2009, Robert D. Charlton, Assistant Superintendent at the Department, sent Respondents a letter requesting the signed Cease and Desist Order, civil money penalty, and all requested examination documents be immediately delivered to the Department.

13. As of April 22, the Department still had not received any of the requested documents or information from Respondents.

LAW

1. Pursuant to Title 32, Chapter 9 of the Arizona Revised Statutes, the Superintendent is charged with the duty to regulate all persons engaged in the collection agency business and with the enforcement of statutes, rules and regulations relating to collection agencies.

2. By the conduct set forth in the Complaint, Respondents have violated statutes and rules governing collection agents as follows:

a. A.R.S. § 6-124(C), by refusing to allow the Department to conduct an examination of Oxford pursuant to A.R.S. § 6-122(B)(3); and

b. A.A.C. R20-4-1504(D), by failing to maintain all records required under his Section and failing to make them available for examination, investigation or audit in Arizona within three (3) working days after the Superintendent demands the records.

3. Respondents' failure to timely respond to the Superintendent's request for information constitutes a violation of A.R.S. § 6-123(3) and 6-124(C), which constitutes grounds to suspend or revoke Respondents' collection agency license pursuant to A.R.S. § 32-1053(A)(3).

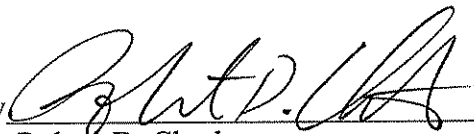
4. The violations set forth above constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and

1 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
2 suspension or revocation of Respondents' license pursuant to A.R.S. § 32-1053; and (4) an order or
3 any other remedy necessary or proper for the enforcement of statutes and rules regulating collection
4 agents pursuant to A.R.S. §§ 6-123 and 6-131.

5 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
6 above-described violations, the Superintendent may suspend or revoke Oxford Collection Agency,
7 Inc.'s collection agency license pursuant to A.R.S. § 32-1053; order any other remedy necessary or
8 proper for the enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§
9 6-123 and 6-131; and impose a civil money penalty pursuant to A.R.S. § 6-132.

10 DATED this 19 day of May, 2009.

11 Felecia A. Rotellini
12 Superintendent of Financial Institutions

13
14 By 
15 Robert D. Charlton
16 Assistant Superintendent of Financial Institutions

17 ORIGINAL of the foregoing filed this 19th
18 day of May, 2009, in the office of:

19 Felecia A. Rotellini
20 Superintendent of Financial Institutions
21 Arizona Department of Financial Institutions
22 ATTN: Susan Longo
23 2910 N. 44th Street, Suite 310
24 Phoenix, AZ 85018

25 COPY mailed same date to:

26 Thomas Shedden, Administrative Law Judge
Office of the Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

1 Erin O. Gallagher, Assistant Attorney General
Office of the Attorney General
2 1275 West Washington
Phoenix, AZ 85007
3

4 Robert D. Charlton, Assistant Superintendent
Jack E. Watson, Senior Examiner
Arizona Department of Financial Institutions
5 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018
6

7 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

8 Charles Harris, Vice President & Active Manager
Oxford Collection Agency, Inc.
9 135 Maxess Road
Melville, NY 11747
10 Respondents

11 Corporation Service Company, Statutory Agent for:
Oxford Collection Agency, Inc.
12 2338 W. Royal Palm Rd., Ste. J
Phoenix, AZ 85021
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